REMARKS

Reconsideration and allowance are respectfully requested. Upon entry of this amendment, claims 1, 3-30, and 32- 41 and 43-83 will be pending.

In an effort to expedite prosecution of the claims in this application, applicant has made amendments to the independent claims that make explicit that which was already implicit in the claims: that workflow exists in addition to the service plan, and while the workflow is created from the service plan, both the service plan and the workflow are recited as claim limitations and which have aspects that are independent of one another. Applicant nonetheless reserves the right to continue prosecution of the claims as previously set forth, prior to the amendments set forth herein.

DEFINITENESS OF CLAIM TERMINOLOGY

In the Final Office Action, the Examiner asserts that "terms...used in the claims, based on applicant's assertion that these are not terms in the art, it is unclear from the specification as to what these terms and other computer related terms are supposed to mean." In particular, the usage of "structured sentence data item," "attribute," "service plan," "structured sentence," "value," "workflow" and "workflow instances" are terms that the specification uses in a manner consistent with usage by those of ordinary skill in the art, and are used in the specification in a manner that is consistent with their normally intended meanings. As such, the Examiner mischaracterizes remarks made in Applicant's previous amendment response in asserting that "applicant's assert[ion] that these are not terms in the art." Applicant, in the previous Amendment response, simply asserted at page 15, paragraph 5 of the June 3, 2003 Response that "terminology used in certain of the claims such as 'instances' and 'attributes' is not intended to refer to object oriented programming paradigms or specific technology for implementing a system according to the present inventions" in an effort to avoid an inappropriately narrow construction being attributed to these terms. Such statement does not mean that these terms should not be accorded their ordinary meaning, but only that the meanings attributed by the Examiner appeared overly narrow.

With respect to construction of claim terminology, application initially addresses the statement made by the Examiner with reference to *Process Control Corp. v. HydReclaim Corp.* The Examiner points to this case for the proposition that an applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning. Applicant agrees with this assertion, but notes that since the common and ordinary meaning of these terms are used, there is no

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need, as suggested by the Examiner to "clearly defin[ing] the terms in the **claims** in order to allow these terms to be afforded the proper patentable weight." In this regard, Applicant notes that while the Examiner maintains that the "broadest reasonable interpretation" was used when construing important claim terms, it is apparent that these terms have been used _inconsistently_ by the Examiner in Final Office Action, and have not been interpreted in a manner that is either (1) logically consistent with their usage in the specification and claims; and (2) sufficiently attributing distinctness between the claims terms themselves.

SUBSTANTIVE ART REJECTIONS

Claims 1-8, 11-13, 15, 21-39, 41-48, 51-53, 55 and 61-68 are rejected under 35 USC 102(b) as being anticipated by Macrae et al '237. Applicant respectfully traverses the Examiner's grounds of rejection.

Independent Claims 1 and 41, and claims dependent thereon

As noted above, claims have been amended to make explicit that which was already implicit in the claims: that workflow exists in addition to the service plan, and while the workflow is created from the service plan, both the service plan and the workflow are recited as claim limitations and which have aspects that are independent of one another. This is true of independent claims 1 and 41. With these amendments, it is apparent that the Examiner's interpretation of Macrae cannot read on these claims, as amended.

In particular, Macrae's Orders/assigned Templates are _within_ the workflow. As amended, claims 1 and 41 clearly recite that the "workflow" exists in addition to the "service plan." This is not a minor difference, but an important aspect of the present invention. Applicant submits that one of ordinary skill in the art, reading Macrae, would recognize that an essential design concept of Macrae is that the Orders/assigned templates are within (or contained by) the workflow, and as such Macrae teaches away from the applicant's inventions.

In Macrae, the structure described using the term "Care Plan" consists of "graphical icons" including "nodes". In Macrae, these "nodes" include one or more "order nodes", each of which may contain (_inside_ the workflow process flow diagram) one or more orders. In Macrea, a single workflow instance comprises the entire Care Plan. In Macrea, the workflow instance describes the sequence of orders, not the steps of execution of a single order, as is the case in the Applicant's

claimed invention. Macrae provides detailed explanations of the method whereby the clinician user must manipulate process flow diagrams and associated graphical icons to create the Care Plan and enter or modify the orders (see for example, Macrea Column 23, lines 32-45.). Such a method is too unfamiliar and tedious to be feasible during busy clinic sessions. In contrast, in the Applicant 's invention, the service plan is formed and is used to in creating the electronic workflow. Unlike Macrae, the user of the Applicant's invention interacts with more a familiar format, recited as "structured sentences," to create the service plan. Unlike Macrea, the Applicant's invention describes a method whereby a _separate workflow process instance is created for each order, using a structured sentence from the service plan. Thus, while Macrea and the Applicant's invention share some common terminology, they are fundamentally different and the revised claims make this abundantly apparent.

In an attempt to show that Macrae has both a service plan and workflow, in the previous Office Action, the Examiner newly introduced (1) a "static/dynamic" argument and (2) a "merely a model" argument.

Even accepting the Examiner's static/dynamic argument (which Applicant does not), Macrae, at any instant in time, can have either a structured sentence or a workflow, but not both.   Claims 1 and 41 make apparent that the workflow exists in addition to the service plan (and the structured sentences that are part of the service plan).

The asserted "merely a model" argument was, more explicitly, that "[E]xaminer points out that the structured sentence is merely a model, and that the workflow is a real world implementation of the structured sentence. " This sentence appears to unintentionally introduce confusion, by discussing terms that are otherwise clear, as well as ignoring explicit claims limitations. The phrases "merely a model" and "real world implementations" are concepts of the Examiner's own creation -- not mentioned anywhere in Macrae --that are an inappropriate use of hindsight.

It is respectfully submitted that the amendments make it abundantly clear that Macrae does not teach or suggest the inventions set forth in claims 1 and 41. The Examiner's counter-argument (page 30 of Office Action) states: "Each order node, for example, becomes an instance of the workflow that has its own specific steps associated with it and implementable (i.e. workflow instance)." But nowhere in Macrae is there a method disclosed for creating workflow instances from order nodes. On the contrary, Macrae describes a different relationship between order nodes and workflow instances. In Macrae, a workflow instance CONTAINS order nodes. Macrae, Column 5, lines 29-32 teaches: "[T]he term 'template' is used to refer to a generic healthcare treatment plan,

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protocol or guideline. After a template has been assigned to a general patient or client, the template is referred to as "plan." Macrae, Column 6, lines 11-14 teaches: "[T]he template **contains a number** of graphic elements including: a start node, three triplets of an **order node**, a result node, a flow control node and an exit node. These graphical elements are positioned in window 10 in order to represent a medical healthcare treatment plan." In Figure 1 of Macrae, a single plan for a particular patient, John Sanders, is shown to contain three order nodes. Thus, to summarize, in Macrae, order nodes do not **create** workflow instances; order nodes are **contained by** workflow instances.

It is also important to point out that the Examiner's counter-argument contains an error in logic in the interpretation of the terminology of the present invention. Specifically, the Examiner's counter-argument confuses the term "structured sentence" with the terms "structured sentence data item" and "care plan template". The latter two terms, as clearly and repeatedly defined in the specification and claims of the current invention, refer to metadata, while the term "structured sentence" refers to patient data. This misinterpretation of the terminology is shown in the Office Action on Page 29: "Macrae et al. discloses this distinctness when stating that the structured sentences are built as a template and assigned to a particular patient as a plan...". Nowhere in Macrae is the term "structured sentence" used, so the Examiner therefore must be attempting to map the terminology in the present invention to the terminology used in Macrae in order to draw comparisons. For example, in the terminology defined in the specification and claims of the present invention, it would be logically correct to say "structured sentence data items are implemented as a template", and it would be correct to say "structured sentences are assigned to a particular patient". But it is not logically correct to say "the structured sentences are implemented as a template".

Dependent claims 5 and 45 even further clarify that the workflow contains certain workflow process instances having at least one decision step, task firing condition or routing rule. That Macrae's Orders/Assigned Templates include routing rules highlights that if the Macrae Orders/Assigned Templates are used to read on the workflow, that these same Orders/Assigned Templates <u>cannot</u> be the service plan.

Dependent claims 69 and 70, ultimately dependent on claims 1 and 41, are also directed to a multidisciplinary team creating a service plan with structured sentences using a workflow to route the service plan. With the distinction between service plan and workflow now even further highlighted in claims 1 and 41, the patentability of these claims is apparent.

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Claims 22 and 62, dependent upon claims 1 and 41, are directed to initiating the workflow. Since claims 22 and 62 further highlight initiation of the workflow, this "initiation" of the workflow is loosely correlated to the "dynamic" argument made by the Examiner (referred to above) --and highlights that this argument cannot properly be used as a basis for asserting that Macrae has both a service plan with structured sentences and a workflow with workflow instances

Dependent claims 23 and 63 are directed to updating the service plan with status information as the workflow progresses, which is also patentable.

Independent Claim 30 and claims dependent thereon

Independent claim 30 is allowable for the same reasons as noted above with respect to claims 1 and 41, as well as for additional reasons. For example, claim 30 further includes the concept of a structured sentence data items and generic workflow, which are separate and distinct from the service plan that has structured sentences and electronic workflow that has workflow instances, respectively. Accordingly, these additional elements highlight other patentably distinct features.

Dependent claim 36, similar to dependent claims 22 and 62 noted above, is directed to initiating the workflow. The argument presented with respect to claims 22 and 62 is equally applicable to claim 36 as well.

Dependent claims 71 and 73 are directed at visually displaying a structured sentence data item and related attributes. Dependent claim 75 is directed to visually displaying a structured sentence, and claim 77 is directed to visually displaying a structured sentence with a value. Given that the whole point of Macrae is for a user to operate within the context of a workflow system (with a process flow diagram containing graphical icons), and these claims are directed to visually displaying structured sentence data items and structured sentences in the more familiar form of essentially grammatically correct sentences, it is apparent that these claims patentably distinguish over Macrae.

Independent Claim 26 and claims dependent thereon

Independent Claim 26 is directed to automatically updating a plurality of existing plans. Not only have amendments been made distinguishing service plans from workflow, in a manner consistent with the arguments noted above with respect to claim 1, but additionally this claim recites updating existing service plans automatically by adding new structured sentences that are common to a plurality of existing service plans. This further feature is not disclosed nor suggested in any of

the page/line references suggested by the Examiner with respect to Macrae. Rather, the teachings referred to only assert that a template "may be assigned" to a patient. No provision for automatic updating is taught or suggested.

Examiner's argument against the patentability of these claims is based on an unreasonable interpretation of the terminology of the claim. In the Office Action, page 9, line 3, the Examiner states: "selecting a plurality of customers in need of one or more services (See column 17, lines 23-25, wherein Macrea et al. discloses assigning a care plan template to a patient or multiple patients in need of said template)". Macrae, column 17, lines 23-25 reads:

> "III. ASSIGNING A TEMPLATE TO A PATIENT. A
> template may be assigned to one or more patients. When a template
> is assigned to a patient, it becomes part of the patient's plan."

Asserting that a template can be assigned to more than one patient is simply to define the concept of a template. But for Macrae to say that a template "may be assigned" to one or more patients does not in any way disclose a method of "automatically updating a predetermined plurality of existing service plans", much less disclosing the particular steps defined in claim 26. In fact, in column 17, lines 28-54, just after the text noted by the Examiner, Macrae goes on to explain the method of assigning a template to a patient, which includes a series of mouse clicks and/or keyboard entries to find the care plan for a single patient, and then modify a single care plan for that individual. Although the user could use this method over and over to manually examine and update the care plan of each patient in a population of patients, it is not reasonable to describe this process as a method for "automatically updating a predetermined plurality of existing service plans". In particular, Macrae does not describe any method for identifying which patients have a need for a particular service, nor a method for selecting a plurality of patients with such an automatically-identified need.

Claims 9-10, 17-20, 40, 49-50, and 57-60 stand rejected under 35 USC 103 as being unpatentable over the '237 patent in view of the Brown '095 patent. Applicant respectfully traverses the Examiner's grounds of rejection.

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Independent Claim 40 and claims dependent thereon

Independent Claim 40 is directed to updating metadata: structured sentence data items and generic workflow specification corresponding thereto. The manner in which this updating takes place is also patentably distinct, as recited: alerts are grouped, and the groupings are used to determine the updating that needs to take place. In combination with the distinction between service plan and workflow, which has been explicitly introduced into this claim, it is submitted that this claim, and the claims dependent thereon, distinguish from the combination of Macrae and Brown. Applicant also maintains the previous argument that these references are not properly combinable, though it does not need repeating herein.
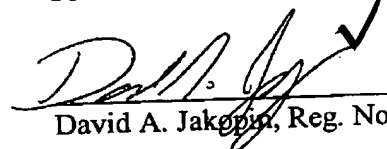
Claims dependent on independent Claims 1 and 41

Claims dependent on claims 1 and 41 that were rejected based on the combination of Macrae and Brown are allowable in light of the allowability of the independent claims, as noted above. Further, these claims are allowable standing on their own. For example, claims 18 and 58 recite the automatic translation of the service plan, a concept not taught or suggested by the combination of Macrae and Brown. Nor does this combination teach or suggest transmitting the translation to the customer at a remote computer, as recited in claims 20 and 60.

In view of the above amendments and remarks, Applicants submit that the above-referenced application is in a condition for allowance, and such a notice is respectfully requested.

CHARGE STATEMENT: The Commissioner is hereby authorized to charge any missing or insufficient fee which may be required relative to this application, or credit any overpayment, to our Account 03-3975/Order No. 073618/0259567 (RHS-001-U)

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